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OSD(HA), TMA eBPS

Highlights

- ◆ General Requirement
- ◆ Documentation Related to Patients' Rights
- ◆ Documentation Related to Policies and Procedures
- ◆ Documentation Retention Period

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TRICARE
Management Activity

HIPAA - Privacy - Documentation

TRICARE Management Activity, Electronic Business Policy & Standards

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

General Requirement

While documentation rules are not new to health care, the Privacy Rule adds additional requirements for Military Treatment Facilities (MTFs) to ensure the safeguarding of patients' rights. In addition to the documentation requirements, MTFs must also maintain documentation pursuant to the six-year retention period mandated by the Rule.

Specifically, policies and procedures related to the protection of individually identifiable health information must be maintained in either written or electronic form. If a communication is required to be in writing, either the original or an electronic version of the communication must be maintained. Finally, any actions, activities, or designations are required to be documented and maintained in either written or electronic form.

Documentation Related to Patients' Rights

The HIPAA Privacy Rule ensures certain rights of patients with regard to their protected health information (PHI). The MTF or other covered entity is responsible not only to ensure protection of these rights of their patients, but also to document:

- ◆ *Notice of Privacy Practices (NoPP).* The NoPP provides the individual with information regarding how the MTF or covered entity intends to use and disclose PHI and its policies and procedures regarding protection of PHI
- ◆ *Requests for Access to PHI.* Individuals are permitted to request access to their PHI, either through direct inspection or by obtaining a copy of a designated record set
- ◆ *Requests to Amend PHI.* Individuals are permitted to request that the MTF amend health record if the PHI contained in the health record is inaccurate or incomplete
- ◆ *Accounting of Disclosures.* Individuals are permitted to request and receive an accounting of disclosures made to other entities, except those made pursuant to an authorization by the individual, for treatment, payment, and health care operations (TPO) purposes, for a facility directory, to the individual directly, for national security purposes, to correctional institutions or law enforcement officials who have custody of an individual, or that occurred prior to the compliance date

The MTF must document the name(s) and title(s) of the person or office(s) receiving and processing the request. In the case of the Notice of Privacy Practices, a written acknowledgement by the patient should be obtained by the MTF and incorporated into the patient's health care record. Finally, if a disclosure is made orally, documentation of the oral disclosure must also be noted and maintained for the six-year retention period.



Documentation Related to Policies and Procedures

The purpose of requiring covered entities to develop policies and procedures for implementing this regulation is to ensure that important decisions affecting individuals' rights and privacy interests are made thoughtfully, not on an ad hoc basis. The purpose of requiring covered entities to maintain written documentation of these policies is to facilitate workforce training and creation of the Notice of Privacy Practices, as well as to increase accountability of the MTF or covered entity to its privacy practices. These policies may be needed to support a defense of a decision made by the covered entity in an investigation of a patient's complaint.

The Rule also requires that covered entities modify any policies and procedures to comply with changes in the law. MTFs are also permitted to make any necessary changes to policies and procedures, provided that the changes comply with the Rule. If a change in practices by the MTF also effects a change in the Notice of Privacy Practices, then the notice must be revised to reflect the change.

Documentation Retention Period

The retention requirement of this regulation only applies to the documentation required by the rule. For example, keeping a record of accounting for disclosures or copies of policies and procedures does not apply to medical records.